

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

WILLIAM DAVILA,
Plaintiff

v.

UNITED STATES OF AMERICA, et al.,
Defendants

:
:
:
:
:
:
:

No. 1:20-cv-00763

(Judge Kane)

ORDER

AND NOW, on this 15th day of June 2020, in accordance with the Memorandum issued concurrently with this Order, **IT IS ORDERED THAT:**

1. Plaintiff's motion for leave to proceed in forma pauperis (Doc. No. 5) is **GRANTED**;
2. Plaintiff shall pay the full filing fee of \$350.00 based on the financial information provided in the application to proceed in forma pauperis. The full filing fee shall be paid regardless of the outcome of the litigation;
3. Pursuant to 28 U.S.C. § 1915(b)(1) and (2), the Superintendent/Warden, or other appropriate official at Plaintiff's place of confinement is directed to deduct an initial partial filing fee of 20% of the greater of:
 - a. The average monthly deposits in the inmate's prison account for the past six months, or
 - b. The average monthly balance in the inmate's prison account for the past six months.

The initial partial filing fee shall be forwarded to the Clerk of the United States District Court for the Middle District of Pennsylvania, P.O. Box 1148, Scranton, Pennsylvania, 18501-1148, to be credited to the above-captioned docket number. In each succeeding month, when the amount in Plaintiff's inmate trust fund account exceeds \$10.00, the Superintendent/Warden, or other appropriate official, shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Plaintiff's inmate trust fund account until the fees are paid. Each payment shall reference the above-captioned docket number;

4. The Clerk of Court is directed to **SEND** a copy of this Order to the Superintendent/Warden of the institution wherein Plaintiff is presently confined;
5. The complaint (Doc. No. 1) is **DEEMED FILED**;
6. The complaint (Doc. No. 1) is **DISMISSED** for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii). Plaintiff's claims against the United States of America are **DISMISSED WITH PREJUDICE**. His claims against the individual Defendants are **DISMISSED WITHOUT PREJUDICE**;
7. Plaintiff may file an amended complaint against the individual Defendants that corrects the deficiencies identified in the accompanying Memorandum within thirty (30) days of the date of this Order. Plaintiff may not amend his claims against the United States of America;
8. The Clerk of Court is directed to mail Plaintiff a civil rights complaint form; and
9. If Plaintiff fails to file an amended complaint within thirty (30) days of the date of this Order, the action is subject to dismissal for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

s/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania